

HOUSE BILL No. 1369

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-16-1; IC 20-12.

Synopsis: University capital projects. Expands the dollar value of higher education capital projects that: (1) can be performed using higher education employees; and (2) do not require advertising for bids. Increases from four to twenty years the maximum term of certain leases entered into by higher education institutions. Reduces from three to one the number of appraisers required when a higher education institution sells real property. Removes the requirement that the governor approve the sale of real property. Increases various dollar amount triggers that determine whether certain higher education capital, repair, or lease projects must be approved by the commission for higher education, the governor, the budget agency, or the general assembly. Increases from \$10 million to \$20 million the amount of bonds that an institution of higher education may issue without the approval of the general assembly to finance a qualified energy savings project. Provides that the higher limit would apply at each academic campus.

Effective: July 1, 2004.

Pierce, Welch

January 20, 2004, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1369

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-16-1-1.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.5. The governing
3 board of any state educational institution, acting on behalf of said
4 institution, may purchase materials in the manner provided by law and
5 perform any work by means of its own employees and owned or leased
6 equipment in the construction, rehabilitation, extension, maintenance
7 or repair of any building, structure, improvement or facility of said
8 institutions, without awarding a contract therefor, whenever the cost of
9 such work shall be estimated to be less than ~~fifty thousand dollars~~
10 **(~~\$50,000~~: one hundred fifty thousand dollars (\$150,000)).**

11 SECTION 2. IC 5-16-1-1.9 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.9. Notwithstanding
13 this article, a state educational institution (as defined in IC 20-12-0.5-1)
14 may award a contract for any construction or repair work to any
15 building, structure, or improvement of the institution without
16 advertising for bids and meeting other contract awarding requirements
17 of this article whenever the estimated cost of the project is less than

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1 ~~fifty thousand dollars (\$50,000); one hundred fifty thousand dollars~~
 2 **(\$150,000).** However, in awarding any contract under this section the
 3 state educational institution must do the following:

4 (1) Invite bids from at least three (3) persons, firms, limited
 5 liability companies, or corporations known to deal in the work
 6 required to be done.

7 ~~(2) Give notice of the project if the estimated cost of the project~~
 8 ~~is more than twenty-five thousand dollars (\$25,000); if required,~~
 9 ~~notice must include a description of the work to be done and be~~
 10 ~~given in at least one (1) newspaper of general circulation printed~~
 11 ~~and published in the county in which the work is to be done.~~

12 ~~(3) (2)~~ Award the contract to the lowest and best bidder.

13 SECTION 3. IC 20-12-1-2 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The Ball State
 15 University board of trustees, Indiana State University board of trustees,
 16 the trustees of Indiana University, the trustees of Purdue University,
 17 and the University of Southern Indiana board of trustees, each as to its
 18 respective institution, shall have the power and duty:

19 (1) to govern the disposition and method and purpose of use of
 20 the property owned, used, or occupied by the institution, including
 21 the governance of travel over and the assembly upon the property;
 22 (2) to govern, by specific regulation and other lawful means, the
 23 conduct of students, faculty, employees, and others while upon
 24 the property owned, used, or occupied by the institutions;

25 (3) to govern, by lawful means, the conduct of its students,
 26 faculty, and employees, wherever the conduct might occur, to the
 27 end of preventing unlawful or objectionable acts that seriously
 28 threaten the ability of the institution to maintain its facilities
 29 available for performance of its educational activities or that are
 30 in violation of the reasonable rules and standards of the institution
 31 designed to protect the academic community from unlawful
 32 conduct or conduct presenting a serious threat to person or
 33 property of the academic community;

34 (4) to dismiss, suspend, or otherwise punish any student, faculty
 35 member, or employee of the institution who violates the
 36 institution's rules or standards of conduct, after determination of
 37 guilt by lawful proceedings;

38 (5) to prescribe the fees, tuition, and charges necessary or
 39 convenient to the furthering of the purposes of the institution and
 40 to collect the prescribed fees, tuition, and charges;

41 (6) to prescribe the conditions and standards of admission of
 42 students upon the bases as are in its opinion in the best interests

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of the state and the institution;

(7) to prescribe the curricula and courses of study offered by the institution and define the standards of proficiency and satisfaction within the curricula and courses established by the institution;

(8) to award financial aid to students and groups of students out of the available resources of the institution through scholarships, fellowships, loans, remissions of fees, tuitions, charges, or other funds on the basis of financial need, excellence of academic achievement, or potential achievement or any other basis as the governing board may find to be reasonably related to the educational purposes and objectives of the institution and in the best interest of the institution and the state;

(9) to cooperate with other institutions to the end of better assuring the availability and utilization of its total resources and opportunities to provide excellent educational opportunity for all persons;

(10) to establish and carry out written policies for the investment of the funds of the institution in the manner provided by IC 30-4-3-3; and

(11) to lease to any corporation, limited liability company, partnership, association, or individual real estate title to which is in the name of an institution or in the name of the state for the use and benefit of the leasing institution.

(b) A lease may be for such term and for such rental, either nominal or otherwise, as the board determines to be in the best interest of the institution. No lease shall be executed under this section for a term exceeding ~~four (4)~~ **twenty (20)** years unless the execution is approved by the governor and by the state budget agency. The universities shall be exempt from all property taxes on any real estate leased under this section, and the lessee shall be liable for property taxes on the leased real estate as if the real estate were owned by the lessee in fee simple, unless the lessee is a student living in university-owned facilities.

(c) This section shall not be construed to deny any tax exemption that a lessee would have under other laws if the lessee were the owner in fee simple of the real estate.

SECTION 4. IC 20-12-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) If the board of trustees of any state educational institution shall determine to sell, convey, or otherwise dispose of any such real property, the board of trustees shall adopt a resolution to that effect.

(b) If the value of the real property, as determined by an independent appraisal procured by the board of trustees, is less than

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1 five hundred thousand dollars (\$500,000), no further authorization is
2 required before the board of trustees may dispose of the real property.

3 (c) If the board of trustees determines by appraisal or otherwise that
4 the value of the real property is five hundred thousand dollars
5 (\$500,000) or more, the following apply:

6 (1) The value of the real property comprised in and constituting
7 the gift, bequest, or devise shall be determined by ~~three (3)~~
8 **disinterested appraisers an appraiser who is:**

9 **(A) disinterested;**

10 **(B) qualified;**

11 **(C) licensed or certified under IC 25-34.1-3-8; and**

12 **(D) appointed by the governor.**

13 (2) No such real property shall be sold, conveyed, or otherwise
14 disposed of for less than the appraised value thereof.

15 ~~(3) The sale, conveyance, or disposition must be approved by the~~
16 ~~governor.~~

17 SECTION 5. IC 20-12-5.5-2 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) In addition to
19 projects authorized by the general assembly, the trustees of each higher
20 education institution may engage in any of the following projects so
21 long as there are funds available for the project and the project meets
22 any of the applicable conditions:

23 (1) Each project:

24 **(A) to construct buildings or facilities of a cost greater than**
25 ~~two hundred thousand dollars (\$200,000)~~ **two million dollars**
26 **(\$2,000,000); or**

27 **(B) to purchase or lease-purchase land, buildings, or facilities**
28 **the principal value of which exceeds ~~one hundred thousand~~**
29 **dollars (\$100,000); two million dollars (\$2,000,000);**

30 must be reviewed by the commission for higher education and
31 approved by the governor upon recommendation of the budget
32 agency.

33 **(2) If, with respect to projects under subdivision (1):**

34 **(A) any part of the cost of the project as specified in section 3**
35 **of this chapter is paid by state appropriated funds or by**
36 **mandatory student fees assessed all students; and**

37 **(B) if the project is to:**

38 **(i) construct buildings or facilities of a cost greater than**
39 **three million five hundred thousand dollars (\$500,000);**
40 **(\$3,500,000); or**

41 **(ii) to purchase or lease-purchase land, buildings, or**
42 **facilities the principal value of which exceeds three million**

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five hundred thousand dollars (~~\$300,000~~); (\$3,500,000);
 the project must also be approved by the general assembly.
 Nothing herein limits the trustees in supplementing projects
 approved by the general assembly from gifts or other available
 funds so long as approval for the expansion of projects is given by
 the governor on review by the commission for higher education
 and recommendation of the budget agency.

~~(2)~~ **(3)** Each repair and rehabilitation project must be reviewed by
 the commission for higher education and approved by the
 governor, on recommendation of the budget agency, if:

**(A) the cost of the project exceeds ~~five hundred thousand~~
~~dollars (\$500,000)~~ two million dollars (\$2,000,000); and**

**(B) if any part of the cost of the project is paid by state
 appropriated funds or by mandatory student fees assessed all
 students.**

If no part of the cost of the repair and rehabilitation project is paid
 by state appropriated funds or by mandatory student fees assessed
 all students, the review and approval requirements of this
 subdivision apply only if the project exceeds ~~one million dollars~~
~~(\$1,000,000)~~ **three million dollars (\$3,000,000).**

~~(3)~~ **(4)** Each project to lease, other than a project to
 lease-purchase, a building or facility must be reviewed by the
 commission for higher education and approved by the governor,
 on recommendation of the budget agency, if the annual cost of the
 project exceeds:

**(A) ~~two hundred fifty thousand dollars (\$50,000)~~
~~(\$250,000); or~~**

**(B) one hundred thousand dollars (\$100,000) and the
 project:**

(i) could involve plant expansion funding; or

(ii) would use repair and rehabilitation funds.

(b) The review and approval requirements of subsection (a)(1) **or**
(a)(2) do not apply to a project to construct buildings or facilities or to
 purchase or lease-purchase land, buildings, or facilities if the project
 involves the expansion or improvement of housing for students
 undertaken entirely by a fraternity or sorority at the state educational
 institution.

SECTION 6. IC 20-12-6-15 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) Contracts to:

(1) acquire land for or to construct, purchase, lease, sublease, or
 otherwise acquire; or

(2) engage architectural or engineering services in connection

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with;
any building facilities to be financed in whole or in part by the issuance of bonds under this chapter or by student building facilities fees charged and collected under this chapter, may not be made by a corporation without the specific approval of the budget agency and the governor.

(b) This section does not apply to any contract:

(1) relating to a facility the cost of which does not exceed ~~fifty thousand dollars (\$50,000)~~; **two hundred fifty thousand dollars (\$250,000)**; or

(2) for architectural or engineering services relating to the planning of a facility.

SECTION 7. IC 20-12-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) Except for notes issued under section 8.5 of this chapter and except as provided in subsections (d) and (e), no bonds shall be issued for a project by the corporations under this chapter unless the general assembly:

(1) has specifically approved the project to be financed through the issuance and sale of these bonds; and

(2) has provided the amount of bonds which may be issued to fund the costs of acquiring, constructing, remodeling, renovating, furnishing, or equipping the specific project approved.

(b) In addition to and in connection with the amount of bonds that may be issued by a corporation for a specific project as provided in subsection (a)(2), the corporations may also issue bonds in amounts necessary to provide funds for debt service reserves, bond or reserve insurance, and other costs without additional approval by the general assembly, if these costs are incidental to the issuance of bonds for the project.

(c) The bonds, regardless of when the amount of bonds was approved by the general assembly, may be issued in an amount not exceeding:

(1) the amount of bonds approved by the general assembly together with the amounts described in subsection (b); plus

(2) the amount of the discount below par value, if bonds are sold at a price below par value under IC 4-1-5-1.

(d) Bonds may be issued by a corporation without the approval of the general assembly if, after the issuance, the total amount of outstanding bonds issued by the corporation without approval will not exceed one million dollars (\$1,000,000). However, the bonds must be approved as provided in section 16 of this chapter.

(e) Bonds may be issued by a corporation without the approval of

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1 the general assembly to finance a qualified energy savings project (as
2 defined in IC 20-12-5.5) if:

3 (1) annual operating savings to a corporation arising from the
4 implementation of a qualified energy savings project are
5 reasonably expected to be at least equal to annual debt service
6 requirements on bonds issued for this purpose in each fiscal year;
7 and

8 (2) the amount of bonds that may be issued by each corporation,
9 other than refunding bonds and exclusive of costs described in
10 subsections (b) and (c), does not exceed ~~ten million dollars~~
11 ~~(\$10,000,000)~~ **twenty million dollars (\$20,000,000)** for each
12 **campus that:**

13 **(A) has academic facilities; and**

14 **(B) includes a qualified energy savings project (as defined**
15 **in IC 20-12-5.5-7).**

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